

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Johnson, Theodis et al.

Group Art Unit: 2832

Serial No.: 10/748,974

Examiner: Rojas, Bernard

Filed: December 29, 2003

Confirmation No.: 8826

For: FAST INSERTION MEANS AND METHOD

Attorney Docket No.: H0006157-1622

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants are in receipt of a Restriction Requirement mailed November 14, 2007, in which three allegedly distinct species are identified as follows:

Embodiment 1: Figures 1-6B - a rapid insertion assembly;

Embodiment 2: Figures 8A-8B - a further embodiment of a rapid insertion assembly; and

Embodiment 3: Figures 9A-9B - a still further embodiment of a rapid insertion assembly.

Through their representatives and attorneys, Applicants hereby elect Embodiment 2: Figures 8A-8B *with traverse*. Furthermore, it is Applicants' belief that each of Claims 1-20 is directed to Embodiment 2: Figures 8A-8B.

Reasons for Traversal

Initially, Applicants wish to point out that this traversal is not an admission that any or all of the cited species are not independent, nor that any or all of the cited species are not patentably distinct from one another. However, Applicants do submit that the independent and patentably distinct species are related under the particular disclosure. Where, as here, “inventions as disclosed and claimed are both (A) species under a claimed genus and (B) related, then the question of restriction must be determined by both the practice applicable to the election of species and the practice applicable to other types of restrictions such as those covered in MPEP § 806.05 – 806.05(i).” See M.P.E.P. § 806.04(b). In accordance with this practice, when several patentably distinct inventions are disclosed as being related, the Examiner must establish reasons for insisting upon restriction. In particular, reasons for insisting upon restriction must be shown by an explanation of: (1) separate classification, (2) separate status in the art when classifiable together, or (3) a different field of search. See M.P.E.P. § 808-808.02. Applicants submit that such an explanation has not been provided, and further submit that one cannot be so provided.

Generic Claims

On page 2, the Restriction Requirement asserts that “[c]urrently, there are no generic claims” encompassing each of the three species identified above. Applicants respectfully submit that this assertion is incorrect; at minimum, Applicants’ independent Claim 1 reads on the rapid insertion assembly 10 shown in FIGs. 1-6B (Embodiment 1), the rapid insertion mechanism 78 in FIGs. 8A-8B (Embodiment 2), and the rapid insertion mechanism 78’ shown in FIGs. 9A-9B (Embodiment 3).

Respectfully submitted,
INGRASSIA, FISHER & LORENZ

Dated: December 12, 2007

/JUSTIN J. LEACH/

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